



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/863,593

05/23/2001

Parag Pruthi

D8113-00021

9303

23973

7590

11/02/2006

DRINKER BIDDLE & REATH  
ATTN: INTELLECTUAL PROPERTY GROUP  
ONE LOGAN SQUARE  
18TH AND CHERRY STREETS  
PHILADELPHIA, PA 19103-6996

EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	<b>Application No.</b> 09/863,593	<b>Applicant(s)</b> PRUTHI ET AL.	
	<b>Examiner</b> Duc T. Duong	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-14, 16-34, 78-85 and 87-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 4, 6-10, 12-14, 19-24, 29, 78, 83 and 87-90 is/are rejected.
- 7) ☒ Claim(s) 5, 11, 16-18, 25-28, 30-34, 79-82, 84, 85 and 91-93 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The indicated allowability of claims 3-14, 16-34, 78-85, and 87-92 are withdrawn in view of the newly discovered reference(s) to Fletchet et al (US Patent 6,321,264 B1).

Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "absolute time" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

Art Unit: 2616

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 3, 4, 6-8, 10, 12-14, 19-24, 29, 78, 83, and 87-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al (US Patent 6,321,264 B1).

Regarding to claims 3, 78, 87, and 88, Fletcher discloses a system 300 comprising means 208 for receiving first data from a first communication line (fig. 2 col. 7 lines 4-6); means 505 for segregating the first data into packets (fig. 5 col. 9 lines 3-13); means 530 for generating a statistic corresponding to packets received during each of a plurality of successive first time periods, the first time periods having a first duration value (fig. 5 col. 9 lines 48-51); means 550 for separately storing the generated statistics for each of the plurality of successive first time periods (fig. 5 col. 9 lines 51-58); and means 201 for generating a further statistic by aggregating the plurality of stored statistics (fig. 8 col. 13 lines 62-67 and col. 14 lines 1-8).

Regarding to claim 4, Fletcher discloses selecting packets based on a respective type wherein the statistics generated in corresponding to the selected packets (fig. 5 col. 9 lines 3-13); associating a respective index with each packet (col. 9 lines 14-21); converting each packet into a respective record including each packet's respective index and storing the records (col. 9 lines 25-37).

Regarding to claim 6, Fletcher discloses the statistic includes a number of packets having a predetermined source address and a number of packets having a predetermined destination address of a respective packet (col. 11 lines 21-31).

Regarding to claim 7, Fletcher discloses a record includes a portion of said record's respective packet plus said packer's respective index (col. 9 lines 25-37).

Regarding to claim 8, Fletcher discloses the respective index of a packet corresponds to a time when the packet was received (col. 12 lines 24-28).

Regarding to claim 10, Fletcher discloses the received packets originated from a second communication line and each received packet includes an indication of a respective first time corresponding to transmission of said packet on the second communication line (fig. 4 col. 8 lines 15-21), further comprising determining a respective second time when each packet is received from the first communication line and calculating a transmission delay corresponding to each packet by subtracting said packet's respective second time from said packet's respective first time (col. 8 lines 22-48).

Regarding to claim 12, Fletcher discloses receiving the first data from the first communication line using a non-intrusive coupling to the first communication line (col. 7 lines 26-32).

Regarding to claim 13, Fletcher discloses receiving information indicating at least one of a type of packets to be selected (col. 10 lines 6-27), the first duration value (col. 12 lines 24-28), and an identification of the statistics to generate (col. 10 lines 48-56)

Regarding to claim 14, Fletcher discloses the information is received via the first communication line (col. 7 lines 26-32).

Regarding to claim 19, Fletcher discloses a respective type of each packet based on at least one of a corresponding application type, a corresponding packet content, a

Art Unit: 2616

packet source, and a packet destination for selecting packet based on the respective type (col. 10 lines 6-27 and col. 11 lines 21-24).

Regarding to claim 20, Fletcher discloses the first communication line is in a network including a user (fig. 3 col. 7 lines 24-24-29) and generating at least one user profiling statistic for each successive time period corresponding to packets destined to or from a user which are received during each respective successive time period (col. 11 lines 21-31).

Regarding to claim 21, Fletcher discloses the at least one user profiling statistic is generated using the records stored in the memory (col. 9 lines 51-58).

Regarding to claims 22 and 23, Fletcher discloses receiving an input from a user identifying a user statistic and generating the identified user statistic (col. 11 lines 5-20).

Regarding to claim 24, Fletcher discloses the first data is transmitted on the first communication line according to a first protocol, further comprising receiving decoding parameters corresponding to the first protocol and receiving the first data according to the decoding parameters (col. 10 lines 57-64) and segregating the received first data into packets according to the decoding parameters (col. 10 lines 6-27).

Regarding to claim 29, Fletcher discloses identifying packets belonging to a data stream; storing stream identification information as one of a separate record and a separate field in the records corresponding to the identified packets (col. 11 lines 13-31).

Art Unit: 2616

Regarding to claim 83, Fletcher discloses correlating the packets received from the first communication line to packets received from the second communication line (col. 9 lines 25-37).

Regarding to claim 89, Fletcher discloses a display device 205 for displaying at least one of the first and second statistics (fig. 2 col. 6 lines 63-64).

Regarding to claim 90, Fletcher discloses a user interface 206 for receiving user input identifying at least one of the first statistics, the second statistics, and the first time period (fig. 2 col. 6 lines 65-67).

#### ***Allowable Subject Matter***

6. Claims 5, 11, 16-18, 25-28, 30-34, 79-82, 84, 85, and 91-93 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

Art Unit: 2616

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD  
DD



HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600